IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

OP.No. 16993 of 2000(W)

PETITIONER:

ST. JOSEPH'S CHURCH,
MARAKKADAVU, PADICHIRA (POST)
PULPALLY REPRESENTED BY ITS VICAR FR. JOSEPH OLIKKARA.

BY ADV. SRI.V.C.JAMES
ADV. SRI.GEORGE MECHERIL

RESPONDENTS:

1.` STATE OF KERALA REPRESENTED BY ITS CHIEF SECRETARY TO GOVERNMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE TAHSILDAR, S. BATHERY.

3. THE TALUK LAND BOARD, S. WAYANADU REPRESENTED BY ITS CHAIRMAN.

BY SR. GOVERNMENT PLEADER SMT. R. MEERA.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 07/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP.No. 16993 of 2000(W)

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1	:	TRUE COPY OF THE PROCEEDINGS NO.D.DIS.TLB/471/73(SW) DATED 02.07.1976 ISSUED BY THE 3RD RESPONDENT.
EXT.P2	:	TRUE COPY OF THE REPRESNTATION SUBMITTED BEFORE THE GOVERNMENT DATED 11.10.1976.
EXT.P3	:	TRUE COPY OF THE WRITTEN OBJECTION SUBMITTED ON 12.08.1976 ISSUED TO THE 3RD RESPONDENT.
EXT.P4	:	TRUE COPY OF THE ENQUIRY REPORT DATED 30.11.1976 NO. SDT (LR) P.120/75 SIGNED BY THE 2ND RESPONDENT.
EXT.P5	:	TRUE COPY OF THE PROCEEDINGS OF THE 3RD RESPONDENT IN D.S.IS. 602/73(TLB SM) DATED 21.12.1976.
EXT.P6	:	TRUE COPY OF THE NOTICE DATED 19.03.1994 ISSUED TO THE PETITIONER.
EXT.P7	:	TRUE COPY OF THE NOTICE NO.32/94/ DATED 25/3/94 ISSUED BY THE 3RD RESPONDENT.
EXT.P8	:	TRUE COPY OF THE WRITTEN OBJECTION BEFORE THE 3RD RESPONDENT IN R.P.NO.13/90 IN TLB. NO.602/73 DATED 21.12.1976.
EXT.P9	:	TRUE COPY OF THE PROCEEDINGS DATED 11.08.1994 IN R.P. NO.13/90 IN TLB (SW)602/73 DATED 11.08.1994 OF THE TALUK LAND BOARD , SULTHAN BATHERY.
EXT.P10.	:	TRUE COPY OF THE NOTICE DATED 31.08.1994 NO 54/93 TO THE PETITIONER.
EXT.P11	:	TRUE COPY OF THE REPORT DATED 14.02.2000 IN L2-18384/95 TO THE TALUK LAND BOARD, SULTHAN BATHERY.
EXT.P12	:	TRUE COPY OF THE NOTICE DRAFT STATEMENT IN SMC 1/2000 (SB) DATED 24.06.2000 BEFORE THE TALUK LAND BOARD, S. BATHERY.

/TRUE COPY/

P.A. TO JUDGE.

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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O.P. No. 16993 OF 2000

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Dated this the 7th September, 2007

J U D G M E N T

H.L. Dattu, C.J.:

The petitioner is a church. The provisions of the Kerala Land Reforms Act, 1963 is made applicable to the land holdings of the petitioner-church. Several orders were passed by the competent authorities. Thereafter, by notice dated 24th May, 2000, the Chairman of the Taluk Land Board intends to re-open some of the orders passed earlier. Aggrieved by the said notice, the petitioner-church is before us in this Original Petition filed under Article 226 of the Constitution of India.

2. The notice issued by the Chairman of the Taluk Land Board reads as under:

> *"Please take notice that if you have any objection to the Taluk Land Board determining under section 87 of the Kerala Land Reforms (Amendment)Act the extent and identity of the land to be surrendered by the persons to whom, the enclosed draft statement relates on the basis of the particulars of extent and identity specified in fact of the said draft statement, you may file or clause to be filed through a pleader or a recognised agent or sent by registered post acknowledgment due your objections, in writing on or before the expiry of fifteen days from the date of receipt of this notice and appear before the Taluk Land Board, S. Bathery (in Taluk Office, Sulthan Bathery) at 11 A.M. on 21.06.2000 to participate in the enquiry to determine the extent and identity of the land to be surrendered , failing*

which, you are informed that the Taluk Land Board will in your absence proceed to determine the extent and the identity of the lands to be surrendered."

3. Learned counsel appearing for the petitioner Shri George Mecheril would submit that the Chairman of the Taluk Land Board has no jurisdiction to issue the aforesaid notice. Apart from this, on merits of the case, the learned counsel has made several submissions.

4. We do not intend to consider the submissions so made by the learned counsel for the petitioner, while disposing of this Original Petition. In our opinion, the impugned notice issued to the petitioner, is in the nature of a show cause notice. Before approaching this court, the petitioner ought to have filed his objections to the said notice inter alia bringing to the notice of the authorities all the averments made in this Original Petition and also the contentions raised at the time of hearing of this Original Petition. Therefore, in our opinion, the petition filed by the petitioner is premature. Accordingly, we pass the following:

O R D E R

i) The Original Petition is disposed of.

ii) The petitioner is granted 45 days' time from today to file his objections, if any, to the impugned notice issued by the Chairman of the Taluk Land Board dated 24th May, 2000.

iii) If such objections are filed within the time granted by this court, the respondents shall consider each one of the objections raised by the petitioner, after affording an opportunity of being heard to the petitioner.

iv) If for any reason, the petitioner is aggrieved by the orders that may be passed by the respondents, he is at liberty to question the same before the appropriate forum.

v) Pending Civil Miscellaneous Petitions are also disposed of.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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H.L. DATTU, C.J.&
K.T. SANKARAN, J.

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O.P. No. 16993 OF 2000

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Dated this the 7th September, 2007

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